



U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

CALIFORNIA DIVISION

980 Ninth Street, Suite 400

Sacramento, CA. 95814-2724

January 17, 2002

IN REPLY REFER TO

HDA-CA

Document #: 37771

Mr. Jeff Morales, Director
California Department of Transportation
1120 N Street
Sacramento, California 95814

Mr. Steve Heminger, Executive Director
Metropolitan Transportation Commission
Joseph P. Bart - Metro Center
101 8th Street
Oakland, CA 94607-4700

Dear Mssrs. Morales and Heminger:

SUBJECT: Air Quality Conformity Lapse in the San Francisco Bay Area

On August 9, 2001, FHWA and FTA notified Governor Gray Davis of the potential for a conformity lapse on the Metropolitan Transportation Commission's (MTC) 1998 Regional Transportation Plan (RTP) and the 2001 Transportation Improvement Program (TIP) on January 21, 2002. Federal regulations require that a new RTP be adopted and found to conform to the Clean Air Act requirements every three years. The MTC 1998 RTP was accepted and found to conform by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) on January 21, 1999.

The U.S. Environmental Protection Agency (EPA) disapproved the Bay Area 1999 Ozone Attainment Plan (1999 Plan). MTC, the Association of Bay Area Governments (ABAG), and the Bay Area Air Quality Management District (BAAQMD) have developed a Bay Area 2001 Ozone Attainment Plan (2001 Plan) to replace the 1999 Plan. The 2001 Plan has been submitted to EPA for approval. MTC has also developed a new RTP, however, a conformity finding on the new RTP cannot be made until EPA makes an adequacy finding on the budgets contained in the new Ozone Plan.

EPA is currently reviewing the new 2001 Ozone Plan, however, an adequacy finding on the budgets will not be made in time to allow MTC to make a conformity finding on the new RTP, consequently conformity will lapse on the 1998 RTP on January 21, 2002.

On January 2, 2002, FHWA and FTA issued revised conformity guidance, copy enclosed. Under the revised guidance, a conformity lapse of the Metropolitan Transportation Commission's 1998 RTP and the 2001 TIP precludes the approval of federal projects and regionally significant non-

federal projects in Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties, except for the following categories of projects:

- 1) Exempt projects, as defined in the EPA Transportation Conformity Rule (40 CFR 93.126 and 93.127);
- 2) Transportation Control Measures in approved State Implementation Plans, and
- 3) For FHWA-funded projects, project phases (i.e., design, right-of-way acquisition, or construction) that received funding commitments or an equivalent approval or authorization prior to a conformity lapse may continue during the lapse. The execution of a project agreement (which includes Federal approval of the plans, specifications, and estimates) indicates funding commitment.
- 4) For FTA, the largest projects are handled with a full funding grant agreement (FFGA). If the FFGA was executed prior to a conformity lapse, the project can continue to utilize Federal funding during the lapse. If the FFGA was not completed by the date of the lapse, the project sponsor may only complete the current stage of project development (e.g., final design or land acquisition), but may not use Federal funds to proceed further. Transit projects not handled with FFGAs may proceed during a lapse if, prior to the lapse, FTA approved a grant and the project sponsor awarded a contract for construction or vehicle acquisition. If a local contract was not approved by the date of the lapse, the project sponsor may only complete the current stage of project development with Federal funds.

For all other projects FHWA and FTA may not make any new project approvals. Similar funding and project development restrictions would be placed on regionally significant, non-federal projects within the nine-county San Francisco Bay Area where the project sponsors are recipients of federal transportation funds.

FHWA and FTA are working closely with EPA, MTC, Caltrans, and other affected air quality and transportation agencies to assist in resolving these issues as expeditiously as possible. EPA has indicated that they will make an adequacy finding on the budgets shortly, consequently, we anticipate that the conformity lapse will be short.

Sincerely,

/s/ Leslie T. Rogers

Leslie T. Rogers
Regional Administrator
Federal Transit Administration

/s/ Dennis A. Scovill (for)

Michael G. Ritchie
Division Administrator
Federal Highway Administration

Enclosure
(S-37772)

cc:

Doug Ito, ARB

Jack Broadbent, EPA

Cecelia Bloomfield, EPA

Mark Brucker, EPA

Ray Sukys / Jerome Wiggins, FTA Region 9

Sue Kiser, FHWA

Caltrans:

Dick Petrie, Federal Resources Branch

Terry Abbott, Office of Local Programs

Sharon Scherzinger, Office of Regional & Interagency Planning

Andrew Knapp, Office of Regional & Interagency Planning

Rambabu Bavirisetty, Transportation Programming

Mike Brady, Air Quality, Environment